



DEPARTMENT OF DEFENSE
OFFICE OF THE APPOINTING AUTHORITY
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APPOINTING AUTHORITY FOR
MILITARY COMMISSIONS


JUN 14 2005

MEMORANDUM FOR CHIEF DEFENSE COUNSEL FOR MILITARY
COMMISSIONS

SUBJECT: Request of Detailed Defense Counsel to Modify Military
Commission Rules to Recognize Right of Self-Representation

Mr. Ali Hamza Ahmad Suliman al Bahlul's request for self-representation is denied. Military Commission Order (MCO) No. 1, paragraph 4(C)(4) states, "The accused shall be represented at all relevant times by Detailed Defense Counsel." After consideration of the attached materials, I do not support the request to change MCO No. 1.

Self-representation at a commission is impracticable. An unrepresented accused will be unable to investigate his case adequately because of national security concerns. An accused confined at Guantanamo, Cuba, who is unfamiliar with applicable substantive law, rules of evidence and procedure will not be able to present an adequate defense. An accused may not be sufficiently fluent in English to understand the nuances of the law. Translation requirements will be exponentially magnified. MCO No. 1, paragraph 6(B)(3) permits the exclusion of the accused from a hearing because classified or other protected information may be presented. Self-representation under these unique commission circumstances would be ineffective representation, and result in an unfair proceeding.


John D. Altenburg, Jr.
Appointing Authority
for Military Commissions

Attachments:

1. Memorandum DepSecDef, December 10, 2004 (1 page)
2. Defense Answers to PO Questions, October 25, 2004 (5 pages)
3. Email Detailed Defense Counsel, October 14, 2004 (6 pages)
4. Prosecution Motion, October 1, 2004 (10 pages)
5. Email Detailed Defense Counsel, May 11, 2004 with memorandum by Detailed Defense Counsel, May 11, 2004 (4 pages)

6. Memorandum Chief Defense Counsel, April 26, 2004 (2 pages)
7. Memorandum Detailed Defense Counsel, April 20, 2004 (1 page)

cc:

Presiding Officer

Chief Prosecutor for Military Commissions